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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,024	08/04/2003	Winthrop D. Childers	10971935-17	5804

7590 01/19/2006

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

VO, ANH T N

ART UNIT	PAPER NUMBER
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2861

DATE MAILED: 01/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/634,024	Applicant(s) CHILDERS ET AL.	
	Examiner Anh T.N. Vo	Art Unit 2861	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/9/2006</u> | 6) <input type="checkbox"/> Other: _____ |

FINAL REJECTION

Claims Rejections

Double patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 39-67 remain rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 10-13, 15-, 19, 22-24 and 29-30 of US Pat. number 6,322,205 and claims 1-2, 8, 13 and 18-20 of US Pat. 6,619,789. Although the conflicting claims are not identical, they are not patentably distinct from each other because they claim an adaptive ink supply for a printing system comprising:

- an ink reservoir;

- a fluid outlet;
- a connector;
- a flexible cable;
- an ink inlet and flexible fluid conduit;
- a source of signals; and
- a controller.

Claim Rejections - J USC 112

Claims 43-51 are rejected under 35 U.S.C. 1 12, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Correction clarification is required.

In claim 43, the recitation “the replacement source of ink” on line 9 lacks clear antecedent basis. It is unclear where the “replacement ink supply” on line 5 and the “replacement source of ink” come from, if the recitation “replacement source of ink” is additional “source of ink” or further recitation of the previously claimed “replacement ink supply” on line 6, what the “any coupling” on line 9 is and which part of the replacement source the connector can connect to the controller in an operation separate from any coupling.

The remaining claims are dependent from claim 43 therefore also considered indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 39, 43, 52, 59 and 62 are rejected under 35 USC (b) as being anticipated by Hillman et al (US 5,365,312).

Hillmann et al discloses in Figures 1-2 a printing device comprising:

- a controller (16);
- a signal source or a memory (14) attached to a replacement ink container (11, 12);
- an inherent flexible bus cable (15) for connecting the signal source (14) to the controller (16);
- wherein the interface (T-ASIC) includes an inherent connector for providing a connection for the bus cable (15) between the controller and the signal source (14); and
- wherein the information contain in the memory (14) which has a write portion (strip 17) which is updated by controller (column 6, lines 15-32).

Claims 39-67 are rejected under 35 USC 102 (e) as being anticipated by Bullock et al (US 5,812,156).

Bullock et al discloses in Figures 1A-5 a printing device comprising:

- a controller (35);
- a signal source or a memory (18) separate from an ink reservoir (26). It noted that the memory (18) is a chip which is attached to the case of the ink reservoir so it is separated from the ink reservoir (26);
- an inherent flexible bus cable for connecting the signal source (18) to the controller (35);
- wherein the controller should include an inherent connector for providing a connection of the inherent bus cable between the controller (35) and the signal source (16)
 - wherein the information contain in the memory (18) including an information interpreted as an ink volume, see column 4, and having a write portion which is updated by controller (35), see lines 1-10, column 6; and
- wherein an inherent fluid outlet (50) in communication with an ink inlet (44) of the ink container (26) .

Response to Applicant's Arguments

The applicant argues at pages 10 and 12 of the amendment filed on 11/3/05 that the memory (14) of Hillman et al does not separate from the ink container (11) and the memory (28) of Bullock et al does not separate from the cartridge (20). The argument is not persuasive. Although the memories (14, 28) are attached to the containers (11, 20) but the memories and the containers are the separate components and they are separated by the wall of the container.

The applicant argues at page 11 of the amendment that the connector of Hillman cannot connect the source of signal in operation separate from coupling of the replacement source of the ink to the printing system. The argument is not persuasive because it is based on unclear recited limitation "replacement source of ink" as stated above. Moreover, the signal source (14) in Figures 1-2 of Hillman et al stores information of the ink container (11, 12) and the connector of the cable (15) connects the signal source (14) separate from "any coupling of replacement source of ink to the printing system.

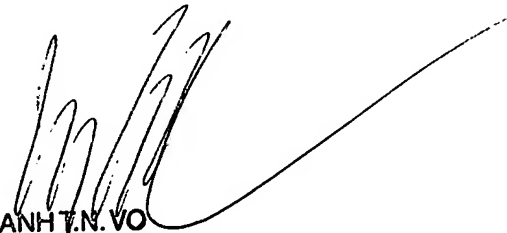
CONCLUSION

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2861

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Anh Vo. whose telephone number is (571) 272-2262. The examiner can normally be reached on Tuesday to Friday from 9:00 A.M.to 7:00 P.M.. The fax number of this Group 2861 is (571) 273-8300.



ANH T.N. VO
PRIMARY EXAMINER
January 7, 2006